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**BY ECF AND MAIL**

May 26, 2017

United States District Court
Southern District of New York
Hon. Judge Paul Engelmayer
Thurgood Marshall Courthouse, 40 Foley Square
New York, New York 10007

Re: United States v. John Afriyie
16-CR-377 (PAE)

Dear Judge Engelmayer:

Mr. Afriyie has requested that this Court adjourn his sentencing which is presently scheduled for June 19, 2017. Mr. Afriyie has indicated that there is a need for an adjournment because "some of the paragraphs are materially different from the original PSR". These include Mr. Afriyie indicates "the obstruction of justice enhancement and the restitution". Quite significantly is the restitution issue. The Final PSR indicates that Mr. Afriyie should pay restitution in the sum of $691,046.423 as billed by the law firm Sullivan & Cromwell. Putting aside, the enormous amount of the billing for providing discovery material to the defense, MSD Capital is not a "victim' as that term is used under the Mandatory Victim Restitution Act of 1996 (MVRA) under Title 18 U.S.C. § 3663(A). Sullivan & Cromwell's reliance on § 3663(A) (c) (1) (B) should not apply to MSD Capital under the circumstances of this case. The English language is severely distorted to argue in any legitimate sense that MSD Capital is a "victim" as that term is used by the law firm representing MSD Capital in its interpretation of the MVRA. In fact, the subpoenaed material should have simply been turned over in short order and could have been compiled by an IT technician. Of course, a bill just short of $700,000 is outrageous for whatever this work entailed. Mr. Afriyie is correct in saying that if the Government actually believes this restitution amount is justified, this issue is then in serious dispute. I will need more time to research this issue if this issue is joined.

Secondly, while I have provided Mr. Afriyie with a draft of my sentencing memorandum, he wishes to address multiple issues and wishes to provide detailed comments. As an inmate at the Metropolitan Detention Center, Mr. Afriyie has limited access to the computer and feels the need to address some of the issues I have raised in my draft sentencing memorandum. He is of course entitled to address his concerns and believes that a June 19 sentence date does not give him adequate time to address his concerns. He seeks one month to July 19. I am expected to be on trial before Judge Caproni on that date. I understand that Judge Caproni does not work on Fridays so the sentencing can be adjourned to July 21 if the Court would grant the adjournment for sentencing.

I have corresponded with Christine Magdo, the Assistant United States Attorney asking her consent for an adjournment. Ms. Magdo has indicated that she takes no position regarding my request for the adjournment. She did correctly state in our correspondence that this Court had indicated that the sentencing date is now firmly set as June 19. I do believe that Mr. Afriyie has a point when saying that the PSR restitution request is new to the final PSR. My Afriyie further has a point that he should have the opportunity to make comments that he believes are appropriate to my draft sentencing memorandum before it is finalized.

Thank you in advance for your attention to this matter.

Very truly yours,

/S/

Mitchell Dinnerstein
Attorney for John Afriyie